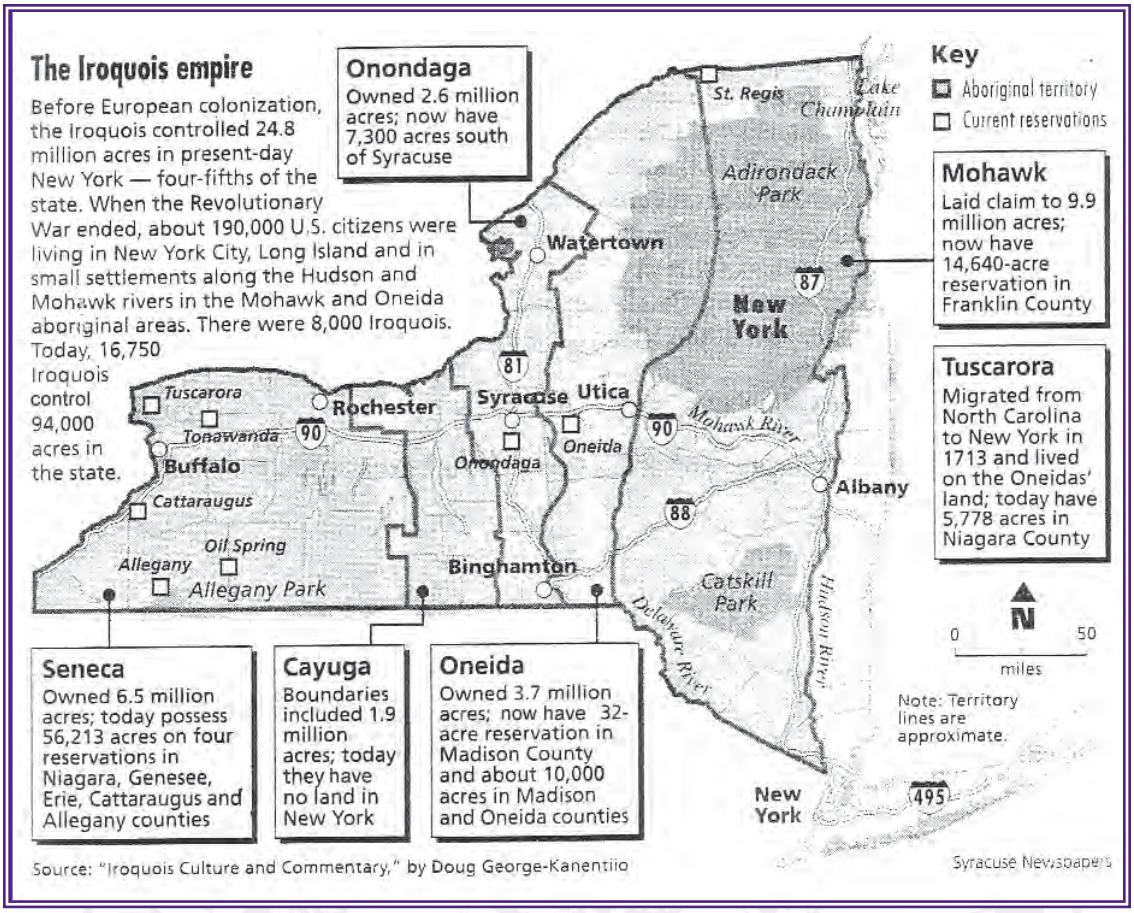
History of the Onondaga Nation and Origins of its Land Rights Action

The Onondaga Nation is a member of what is now commonly referred to as the Haudenosaunee (translated as "People of the Long House"), an alliance of native nations united for the past several hundred years by complementary traditions, beliefs, and cultural values. Sometimes referred to as the Iroquois Confederacy or Six Nations, the Haudenosaunee originally consisted of the Mohawk, Oneida, Onondaga, Cayuga, and Seneca nations. The Tuscarora migrated from the south and peacefully joined the Confederacy in the early 1700s, bringing to six the number of nations united by Haudenosaunee traditional law.

HISTORY OF THE HAUDENOSAUNEE

Established sometime around 900 A.D., the Haudenosaunee predate the founding of the United States. It also existed prior to contact with Europeans, making it one of the world's earliest and longest-functioning democracies. Guided by the Great Law, complete with a sophisticated system of checks and balances, the Haudenosaunee system influenced early American governments far more than it was influenced by them.

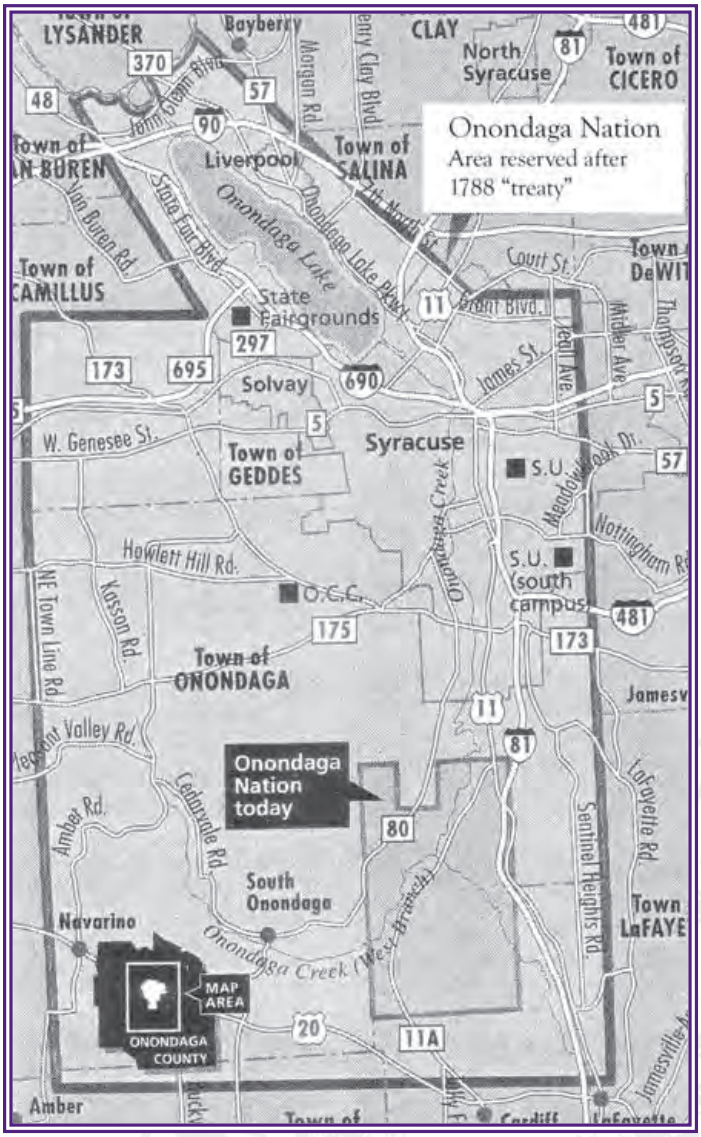


Traditional lands of the Haudenosaunee

History of the Onondaga Nation and Origins of its Land Rights Action

Prior to the American Revolution, the Haudenosaunee inhabited much of what is now New York State, along with parts of Pennsylvania, Connecticut, Massachusetts and Vermont. Like the United States government and the colonial powers before it, the Haudenosaunee occasionally entered into strategic alliances and negotiated treaties with other nations – both native and non-native – covering issues of trade and commerce, and other matters. The first such treaties were with the Dutch, then with the French and British, and finally with the newly-formed United States government.

At the conclusion of the Revolutionary War, the United States decided to give 600 acres of land to each war veteran in lieu of monetary compensation, land which it did not own or possess. In New York State, much of the land earmarked for veterans was owned by the Haudenosaunee. A treaty in 1768 between the Haudenosaunee and the British crown, and carried forward by the United States, prohibited any white settlement west of Rome, New York. Onondaga territory lies west of Rome, and consists of a 40-50 mile-wide swath of land stretching from Pennsylvania to Canada, bordered to the east by the lands of the Oneida Nation and to the west by the lands of the Cayuga Nation.



Onondaga lands after invalid 1788 "treaty"

TREATIES AND OBLIGATIONS

Onondaga and Haudenosaunee ownership of this land was further confirmed when the newly-formed United States entered into the Treaty of Fort Stanwix in 1784. The Fort Stanwix Treaty reserved for the Haudenosaunee all the land they owned in New York State, with exception of small parcels near Fort Oswego and Fort Niagara and an additional area in the southwestern corner of the state. For their part, the Haudenosaunee agreed to relinquish all claims to lands west and south of their core territory in New York State. This was a strategically important and exceptionally valuable concession for the United States, for it opened the way to new exploration and settlement in the Ohio Valley and, in turn, provided

protection for the Mid-Atlantic and New England states. Another important treaty was the Treaty of Canandaigua in 1794, which reaffirmed the principles of peace and friendship between the two nations while clarifying the international boundaries between them.

In July of 1788, the State of New York ratified the United States Constitution, which explicitly reserves for the federal government the exclusive power to make treaties with other nations, including native nations. Just two months later, however, New York governor George Clinton convinced un unauthorized group of Onondagas to "sell" nearly two million acres of land to New York, even though he had just signed the Constitution, which prohibited such action, despite the fact that the signatories were not Onondaga or Haudenosaunee representatives. What is more, this taking was done in violation of New York's own laws. Backed by the force of New York State, this illegal agreement relegated the Onondagas to approximately 108 square miles of territory, including most of present-day Syracuse, the entire town of Onondaga, and portions of the towns of La Fayette, Otisco, Camillus, and Geddes. The treaty also reserved to the Onondagas a one-mile swath of land around Onondaga Lake for the purposes of making salt in common with newly arriving settlers.

In 1790, partly as a result of continuing adverse actions by the New York State government toward Indian nations and at the urging of President Washington, Congress enacted the Trade and Intercourse Act. This legislation, further strengthened in 1793, explicitly forbade the "purchase, grant, lease or other conveyance of land" without the approval and participation of Congress. Yet, despite these federal laws and the illegality of Clinton's 1788 arrangement, illegal acquisitions of Haudenosaunee land did not end. Over the next thirty-five years, additional "agreements" with New York State, including purported Onondaga cessions in 1793, 1795, 1812, and 1822, took most of what remained of the reserved lands.

These illegal actions and fraudulent taking s form the basis for the Onondaga Nation's current law suit, which seek a declaratory judgment that the lands were taken by New York State in violation of federal law and that the "agreements" purporting to do so are therefore null and void.

The Onondaga Nation Today

Like other member-nations of the Haudenosaunee, the Onondaga Nation survives today as a sovereign, independent nation, living on a portion of its ancestral territory and maintaining its own distinct laws, language, customs, and culture. Today, the Onondaga Nation consists of a 7,300-acre territory just south of Syracuse, on which it maintains its sovereignty and operates outside the general jurisdiction of New York State. The Nation is still governed by a Council of Chiefs, selected in accordance with its time-honored democratic system. In the same vein, many Onondagas practice traditional ceremonies and adhere to religious philosophies and social customs that long predate contact with Western civilizations. Aspects of this ideology have been incorporated into America's legal system, as well as into its culture. Personal and societal consideration of the Seventh Generation is but one example of a Haudenosaunee world view that has informed, enhanced and enlightened American and other national cultures.

Tadodaho, Onondaga spiritual leader

As in any other vibrant and dynamic society, Onondaga culture continues to change and evolve to meet the challenges of the modern world. Just as most Americans today no longer live in log cabins or sod houses, neither do Onondaga people live in their traditional elm longhouses. Most Onondagas today live in frame or modular homes. They work as teachers, retail clerks, or for the Nation itself, at the Onondaga Nation's healing center, school, fire department, and hockey and lacrosse arena. Other Onondagas work outside the Nation, as teachers, lawyers, nurses, construction workers, or in other professional occupations.

As an independent, sovereign government, the Onondaga Nation government does not pay income, sales, or excise taxes to New York State or to the federal government, nor does it receive any of the benefits paid for by these taxes. Unlike several other New York native nations, the Onondaga Nation has chosen not to become involved in the casino business or other gambling ventures. Instead, the Nation operates a tax-free smoke shop, which funds many community projects, including the repair of homes, a reservation water system, a healing center, and the recently-completed Onondaga Nation multi-purpose arena. Opened in 2002, the 1,900-seat ultra-modern facility boasts over 40,000 square feet, and doubles as a facility for both hockey and lacrosse, not only for Onondaga citizens, but for neighboring town, city, high school and college teams as well.

Onondaga Nation Facts

- The present-day territory of the Onondaga Nation ("People of the Hills") is approximately 7,300 acres just south of Syracuse near Nedrow, New York.
- Between 1788 and 1822, the Onondaga Nation lost possession of approximately 95% of its land through a series of illegal takings by the State of New York in violation of Federal law.
- Onondaga (the keepers of the Central Fire) is considered to be the capital of the Haudenosaunee, a name meaning "People of the Longhouse". The Haudenosaunee are sometimes referred to as the Iroquois Confederacy, or Six Nations.
- The Haudenosaunee was founded at Onondaga after the Peace Maker visited the warring nations. This is estimated to have occurred around the year 1000 A.D. The five original nations of the Haudenosaunee were the Mohawks, Oneidas, Onondagas, Cayugas and Senecas. The Tuscaroras joined the confederacy in the early 1700's.
- The nations of the Haudenosaunee came together after agreeing to work together peacefully rather than continuing to battle each other. They established a democratic system of government led by a Grand Council consisting of chiefs from each nation. These chiefs worked with clan mothers to ensure the preservation and well-being of the Haudenosaunee.
- The Haudenosaunee is considered to be one of the oldest participatory democracies on earth, and provided an important structural model for the Founding Fathers developing the United States Constitution.
- The Haudenosaunee became the greatest Indian power in colonial America, with a homeland that spanned northern New York between the Hudson and Niagara rivers and an influence that extended from the Ottawa River to the Chesapeake Bay, and from New England to Illinois.
- The Onondaga Nation maintains traditional cultural views and a traditional system of government. The Nation does not permit the sale of alcohol and has opposed casinos and online gaming.
- The Haudenosaunee are known internationally as a peaceful people, with a heritage of statesmanship, government/law and an oral tradition passed from generation to generation.
- Onondaga remains the meeting place for the Grand Council of Chiefs, the traditional ruling body for the Haudenosaunee. The Longhouse serves as a place of spiritual, cultural and social activities, the seat of government and symbol of security.

Chronology of the Onondaga Nation's Land Rights Action and the court decisions affecting its fate

1974
U.S. Supreme Court decides that the Oneida Nation's claim for lands which were lost through a violation of the Trade and Intercourse Act should be heard in federal court.

1980 –1994
Cayuga Nation files a claim for the return of 64,000 acres of land (1980). The Federal government intervenes in the Cayuga case (1992). U.S. District Court Judge Neal McCurn rules that the Cayugas had a valid claim to their ancestral land. (1994)

1982
The Ancient Indian Land Claims Settlement Act seeks to resolve land claims by validating all prior land transfers and allowing Indian nations to sue only for monetary damages. The bill dies in Congress.

2000-2001
After negotiations break down, the Cayuga claim becomes first to go to trial in federal court. In February, a jury awarded the Cayugas $36.9 million dollars for their land and loss of use of that land. On October 2, 2001, Judge Neal McCurn announced his decision to add $211 million in interest to the jury award, for a total of $247 million.

March 11 2005
Onondaga Nation files historic Land Rights Action in federal court seeking recognition of its aboriginal title over some 4,000 square miles of land and calling for environmental cleanup in the territory.

March 29 2005
US Supreme Court (Sherrill v. Oneida) rules that the Oneida Nation cannot reassert sovereignty over land bought within its Canandaigua Treaty recognized reservation. The decision cited the "longstanding, distinctly non-Indian character of central New York and its inhabitants, the regulatory authority over the area constantly exercised by the State and its counties and towns for 200 years, and the Oneidas' long delay in seeking judicial relief," as it invoked the legal concept of laches, that the Oneidas had waited too long, and any remedy would not be fair to locals. But laches, as traditionally used in law, has requirements that must be met for it to be invoked, none of which were met. This case set dangerous precedent.

June 28 2005
Second Circuit US Appeals Court reverses the Cayuga decision, nullifying the award of some $247 million to the Cayugas for loss of all of their lands, and completely dismisses their entire land claim, thereby leaving them with no currently recognized legal remedy and no land.

August 1 2005
Onondaga Nation files amended Land Rights Action responding to court decisions in Sherrill v. Oneida and an appeal of the Cayuga Land Claim.

Fall 2005
New York files a motion to dismiss the entire Land Rights Action, based upon Sherrill and Cayuga. The State does not even to attempt to deny that it knowingly violated federal law, treaties and the Constitution when it took Onondaga lands; it merely claims that none of these historic harms matter and that the Onondagas "waited too long," so "it would not be fair" for them to bring the case now.

August 2006
The Nation files 1000 pages in response to NY's motion to dismiss, which included Affidavits from 4 renowned historians and 100's of pages of primary historic documents. This reponse documented that the Land Rights Action has NOT been "disruptive," and that the Onondagas immediately and repeatedly complained of NY's takings of their land, with multiple trips to Washington, DC to meet with Washington, Jefferson and others.

October 11 2007
Oral argument is heard in the federal court in Albany on the State's motion to dismiss, and Judge Kahn reserves decision. The courtroom is packed with the Onondagas and their supporters.

August 9 2010
2nd Circuit Court of Appeals dismisses the historic Oneida Nation land claim, based on the Sherrill and Cayuga rulings. As the Supreme Court later (2011) refused to hear this case, this was the end of the Oneida land claim. It further formalized in law the new use of laches, despite the fact that it does not follow the normal legal rules of equity, and only applies to Indian Nations who attempt to enforce their treaty rights via land claims.

September 23 2010
Judge Kahn rules that after the Oneida dismissal he has no alternative but to dismiss the Onondaga Land Rights Action, though the state had not even denied having illegally taken the Onondaga lands. This dismissal essentially says that because so much time has passed since NY took the land and because so many Onondagas have been removed from the land, it would "not be fair" to rule that NY knowingly violated federal law, the Constitution and Treaties when it took the land.

October 16 2010
Nation files the Notice of Appeal in the 2nd Circuit, to begin the appeal process.

October 25 2010
The Tadodaho' and the Nation General Counsel Joe Heath address the Central New York community at Syracuse Stage on the topic: "Onondaga Land Rights: Progress for Mother Earth," They proclaim that the struggle to heal the theft of the Nation's lands will continue and that the Nation looks forward to continuing to work with its neighbors to heal the land,waters, air and the historic injustices inflicted on the Onondaga people.

February 28 2012
The Onondaga Nation brings the wampum belt commemorating the Treaty of Canandaigua and George Washington's promises to protect their land to Washington, D.C. to announce the appeal of the Land Rights Action.

The Post-Standard
P.O. BOX 4915, SYRACUSE, NEW YORK 13221-4915

Our opinion

Elements of the Claim

Onondagas' carefully targeted strategy avoids panic

The wind. Like a gentle but persistent breeze, the Onondagas have carefully laid out their case for legal ownership of land in New York. They say the state illegally purchased land from the Onondagas between 1788 and 1822, in violation of federal law. The momentum for their arguably justifiable claim (they are the last of the five-member Iroquois Confederacy to file one) came when the Supreme Court recognized in 1985 that New York had no right to sign treaties with Native Americans without federal approval.

John Berry / Staff photographer

JUST MINUTES after filing a land claim in federal court March 11, Chief Sid Hill *(left)* reached out to embrace the nation's general counsel, attorney Joseph Heath.

The land. The Onondagas are suing for 4,000 acres of land. Yet, what is fortunate for the current occupants of that land – some 875,000 residents from Binghamton to Watertown – is that the nation has not talked about evicting anybody, seizing property or negotiating for the right to inhabited acreage.

The Onondagas' announcement caused little stir in the area, a testament to the nation's handling of the claim. The Onondagas have been true to their culture – which does not recognize that anyone has the right to truly ''own'' land that belongs to the Creator.

The water. The Onondagas say they are stewards of the land and water, and as such have included environmental cleanup of Onondaga Lake and other sites as integral parts of their lawsuits. They have named five alleged polluters, including Honeywell, in the claim. Whether their legal actions could delay a proposed $451 million lake cleanup plan is unclear. Perhaps the lawsuit could pressure the state, the company and other defendants to make the best effort in cleaning up the lake and other areas.

The air. The Onondagas are considered the most traditional of the members of the Iroquois Confederacy. As such, they would like Onondaga Lake and surrounding areas returned to their original state – with fishable waters, huntable lands and pollution-free air. It is not clear whether this will happen in this generation, but it definitely will not ever happen unless high goals are set.

The fire. The 1985 Supreme Court ruling, specifically addressing the Oneidas' claim, created a heated intensity in land-claim actions. The Onondagas certainly have precedent to support their case against New York state. Historians say that former Gov. George Clinton tricked the Onondagas into selling about 2 million acres by telling them that whites would take their land and they would not get any compensation. In addition, the state signed treaties to obtain more land without the legally required approval from Congress.

The people. It is not clear what will happen next in court or how long it will take to settle the claim. Thankfully, the Onondagas are opposed to gambling casinos, which is Gov. George Pataki's solution for righting historical wrongs. What is encouraging and perhaps even humbling is how Sid Hill, tadodaho or spiritual leader of the Onondagas, views the Onondagas' action:

''We're trying to do a different land-rights action here. Our concern is the environment and how we as two peoples can live in the area that was our ancestors.''

Specific Goals of the Land Rights Action

To achieve a healing with our neighbors of the centuries of difficulties caused by the illegal taking of Onondaga and Haudenosaunee lands.

To restore to the Onondaga Nation recognition of title to its aboriginal territory.

To recover possession of portions of this territory from New York State and willing sellers for the use of the Onondaga people.

To secure a continuing source of revenue from the Nation's lands without displacing persons from the land.

To secure revenues and land sufficient to achieve economic self-sufficiency, including :

- An adequate supply of quality housing;
- A quality education system;
- Affordable, quality health care;
- Sound and sustainable agricultural programs;
- Programs for the proper care of elders and youth;
- A program for environmental restoration and protection;
- Employment opportunities for the Nation and its neighbors.

To protect and conserve the natural resources within and affecting the Nation's land, as a means of safeguarding all citizens' rights to a natural, healthy environment.

To obtain recognition of the basic rights of the Onondaga Nation, including those rights agreed upon in treaties with the United States.

To secure Onondaga rights to hunt, fish and gather for subsistence and cultural needs.

To secure adequate protection for the burial sites of our ancestors, as well as other important sacred and archeological sites.

To resolve all ongoing conflicts with the state and federal governments, particularly regarding taxation and jurisdiction.

To provide for the growth and perpetuation of Onondaga culture, language, laws, religion, and way of life.

Specific Goals of the Land Rights Action

WHAT ARE THE CENTRAL GOALS AND PURPOSES OF THE ONONDAGA LAND RIGHTS ACTION?

The ultimate purpose of the Onondaga Nation in the assertion of its land rights is to enable the Nation to maintain its culture and way of life, and to protect the earth and its environment for all inhabitants of central New York. Collectively and individually, the Onondaga people have a right to decent and productive lives with adequate food, shelter, medical care, and other necessities, as well as to a clean and healthful environment. The Nation has suffered enormously from the loss of their lands and resources. Its people have suffered culturally, socially, emotionally, and economically, an historical condition exacerbated by the persistent unfavorable economic conditions in Central and Upstate New York. Legal recognition of the Onondaga Nation's rights to its lands is essential to the preservation and strengthening of the Nation and the Haudenosaunee.

The Onondaga Nation hopes that the land rights action can be resolved in a just and fair way through negotiation, but is prepared to litigate in court should that prove necessary. The Nation is not seeking anything not already guaranteed by United States law.

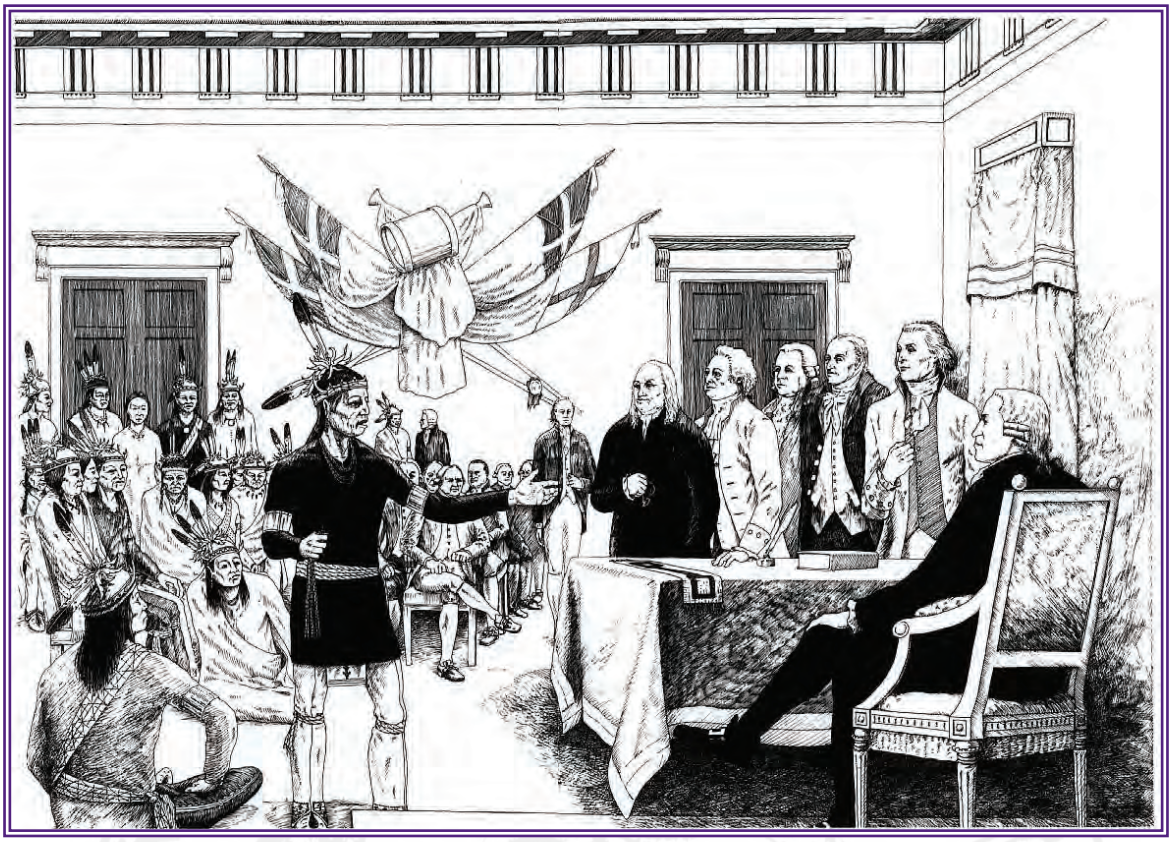
The Nation believes that the successful reassertion of its land rights will help to improve the overall quality of life and the environmental health of the region. Achieving such results will require considerable cooperation between the Nation and other individuals, organizations, and communities in the region who share many of the Nation's goals. The Nation hopes to strengthen and develop relationships with supportive organizations and individuals that will increase the capacity of the communities in the region to address issues that are of regional concern, such as responsible, sustainable economic development and environmental protection.

Sovereignty of the Onondaga Nation

Although physically situated within the territorial limits of the United States today, native nations like the Onondaga Nation and the other members of the Haudenosaunee, or Six Nations Confederacy, retain their status as sovereign nations. Like the United States, the Haudenosaunee is a union of sovereign nations joined together for the common benefit of its citizens. Governed by a Grand Council of Chiefs who deliberate and make decisions for the people concerning issues both domestic and international, the Haudenosaunee began as a confederacy of sovereign nations aligned to deal with other native nations surrounding their lands and, later, to negotiate with Europeans when the latter came into their territories beginning in the early 1600's.

ONONDAGA SOVEREIGNTY

Sovereignty is the state of existence as a self-governing entity. It was in this capacity that the Onondagas and other members of the Haudenosaunee sat with delegates from England, France and the Netherlands in the years prior to American independence. During the colonial era the Haudenosaunee made at least 50 treaties with European powers, most of which were expressions of peace and friendship. Some were made to share land, but the member-states of the Haudenosaunee retained their hunting, fishing, and gathering rights within the territory that they agreed to open to settlers.



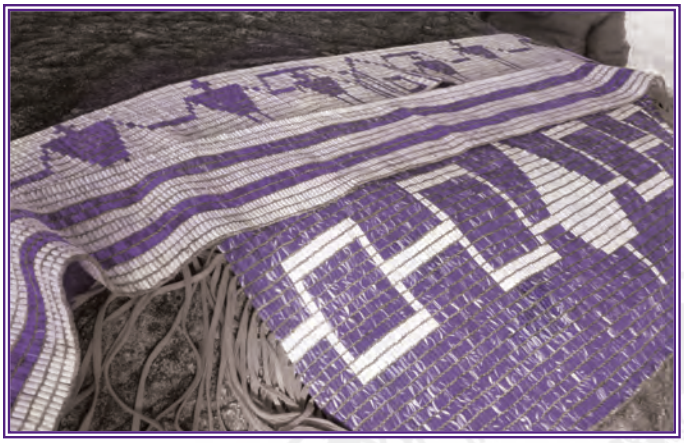
Haudenosaunee chiefs meet with Continental Congress

After the Revolutionary War, the 13 colonies each became independent states and began to conduct themselves as sovereign governments. Eventually they set up a process for unified government similar to that of the Haudenosaunee, and created the United States Constitution. The Constitution specifically vested the President or his appointed representatives with the exclusive legal right to negotiate treaties, which are agreements between sovereign nations, and gave the Senate the exclusive power to ratify those treaties. The Commerce Clause further granted Congress the exclusive authority to regulate commerce with Indian nations.

Early U.S. statesmen acknowledged the international status of Indian nations and the treaties made with them. Rufus King, one of America's founding fathers and later a U.S. Senator from New York, equated Indian treaties with all other international treaties, such as those with Britain or France. On February 12, 1818 in a letter to his son describing an Indian treaty recently rejected by the Senate, King concluded with a telling postscript: "As all Treaties, including Indian Treaties, are deemed State Secrets, until ratified and published, you must so far regard this communication as such, as not to publish the same."

UNITED STATES - HAUDENOSAUNEE TREATIES

With this mutual understanding as a backdrop, the United States government entered into three major treaties with the Haudenosaunee. Interestingly, two of these treaties have never been abrogated by either side and remain in effect to this day, while a third, the 1789 Treaty of Fort Harmer, was superceded by the Treaty of Canandaigua in 1794. Validation of this treaty lies in the fact that the Haudenosaunee receives from the United States annuities from the Canandaigua Treaty, in the form of bolts of muslin cloth and a $4500 annuity allocated each year from the U.S. Treasury.



Haudenosaunee treaty belts

In 1871, the United States ceased treaty-making with native nations. By that time, the U.S. had entered into nearly 400 legitimate treaties with indian nations. It is the contention of the Onondaga Nation, then, that it maintains and has never relinquished either its national or collective sovereignty as a member of the Haudenosaunee. Such sovereignty was defined by the Peace Maker as belonging to those nations that accepted the Great Law, subscribed to its spiritual, moral and social mandates, and placed themselves under the authority of the Governing Councils of Chiefs. There has never been any provision for transferring that sovereignty to any other entity, nor have the traditional chiefs of the Haudenosaunee ever consented to such a transfer.

SOVEREIGNTY DEFINED

Like the individual states of the United States, each member nation of the Haudenosaunee retains the authority to govern its own internal affairs. Within the framework of the Great Law and its own specific laws, each individual nation reserves the right to adjudicate internal disputes, pass laws for the welfare of their own community, assess fees, regulate trade and commerce, control immigration and citizenship, oversee public works, approve land use, and appoint officials to act on its behalf. Every member of the Haudenosaunee has the authority to defend its citizens against internal and external dangers and to advocate for the peaceful resolution of conflict and the equitable distribution of collective resources.

Like the United States federal government, the Haudenosaunee is itself a constitutional government, holding the power to resolve differences between member nations and to guarantee that its members are of one mind on matters of international treaties, territorial disputes, international trade, or any other issue that affects the long-term welfare of the Confederacy. The Chiefs of the Grand Council are designated advocates of peace and hold the future welfare of the people in their hands. They are empowered to deliberate, to consider all options, to arrive at consensus, and to legislate laws that are added to the collective set of laws called the Great Law.

Sign on Interstate 81

In the past, the chiefs, headmen and delegates of each nation were involved in the negotiation and acceptance of the terms of treaties with European governments, and later with the United States government. These treaties were then presented to the Grand Council for approval. If accepted, a treaty came to represent the legal relationship between the United States and the traditional nations.

Haudenosaunee sovereignty was not granted by the United States, any more than U.S. sovereignty was granted by the English crown in the eighteenth century. Sovereignty is an inherent right that, in the case of the Onondaga Nation, was established with the formation of the Haudenosaunee and adoption of the Great Law of Peace.

The Onondaga Nation has had and continues to possess sovereign authority, both as a nation and as part of the Haudenosaunee. With such sovereignty comes the power to pass laws, make treaties, and act on behalf of the Onondaga people in relations with other sovereign nations. It is an authority that the Nation and its designated representatives take very seriously.

The Onondaga Nation and Environmental Stewardship

For many years, the people of the Onondaga Nation have worked cooperatively with their neighbors to protect the environment, clean up pollution, and promote economic development in the Syracuse/Onondaga region of Central New York. These goals are inseparable from the goals of the Land Rights Action. Restoring the health of the Onondaga Creek watershed is every bit as important as acknowledging title to the land. The health and well-being of the Nation is interconnected with the health and well-being of the land, air and water.

THE FIRST PARAGRAPH OF THE LAND RIGHTS ACTION READS:

> "The Onondaga People wish to bring about a healing between themselves and all others who live in this region that has been the homeland of the Onondaga Nation since the dawn of time. The Nation and its people have a unique spiritual, cultural, and historic relationship with the land, which is embodied in Gayanashagowa, the Great Law of Peace. This relationship goes far beyond federal and state legal concepts of ownership, possession or legal rights. The people are one with the land, and consider themselves stewards of it. It is the duty of the Nation's leaders to work for a healing of this land, to protect it, and to pass it on to future generations. The Onondaga Nation brings this action on behalf of its people in the hope that it may hasten the process of reconciliation and bring lasting justice, peace, and respect among all who inhabit the area."

The Nation is carrying out a long-term strategy to use its land rights to promote conservation, environmental protection and responsible economic development in partnership with its neighbors.

ONONDAGA LAKE

Onondaga Lake is surrounded by urban development and plagued by municipal and industrial pollution

The Onondaga Nation continues to work for the restoration of Onondaga Lake from the century of toxic industrial and municipal pollution along its shores. The Onondaga Nation is asserting its rights to its sacred lake, and being heard. In 2008 the Onondaga Nation, NYSDEC, and the U.S. Fish and Wildlife Service formed a Natural Resource Damage Assessment and Restoration Trustee Council for Onondaga Lake. Healing the Lake involves not only addressing human health impacts of the site, but also restoration of the natural resources, and improving the ecological health of the entire Onondaga Lake watershed.

ONONDAGA CREEK

Onondaga Creek has its headwaters upstream of the Nation's currently recognized territory, and is extremely important in the life of the community. In the mid-90's, the Onondaga Nation joined forces with the town of Tully, a small community south of the Nation's currently-recognized territory, in an effort to stop a gravel mine in that community. The mine threatens to pollute and degrade Onondaga Creek, which flows through the Nation's territory and continues through downtown Syracuse into Onondaga Lake. The Nation also continues to seek solutions for the oversized dam and the mudboils, which dump tons of sediment per day into Onondaga Creek. Onondaga Nation elders recall when the water of Onondaga Creek was crystal clear; in recent decades, it has the consistency of chocolate milk.

Onondaga Creek

From 2005-2009, the Onondaga Creek Conceptual Revitalization Plan was created with input from the Onondaga Nation along with a wide representation of other neighbors and stakeholders. The Plan contains a strong vision for a restored, naturalized Creek and is a cornerstone for planning future activities in the watershed.

In Syracuse, the Onondaga Nation has worked with the Partnership for Onondaga Creek for over a decade, advocating for environmental justice and non-polluting solutions to the combined sewer overflows that pollute Onondaga Creek. In 2008, the Onondaga Nation joined with Atlantic States Legal Foundation to bring Onondaga County and NYSDEC back to the negotiating table to consider green infrastructure - creating ways for rainwater to be used or infiltrate into the ground instead of running off into the sewers - as a method of reducing the combined sewer overflows into the creek . The plans for two of the three sewage plants were canceled, along with a massive pipeline along Onondaga Creek on Syracuse's south side through an already disadvantaged community. The rain gardens, green roofs, street trees, rain barrels, and green street improvements of the resulting Save the Rain program are making Syracuse a more beautiful and sustainable city. The hockey arena at the War Memorial in Syracuse now uses captured rain water to make its ice, and the 60,000 square foot roof on the convention center is now one of the largest green roofs in

the Northeast. In 2010, the U.S. Environmental Protection Agency presented an Environmental Quality Award to the Onondaga Nation, Partnership for Onondaga Creek, Atlantic States Legal Foundation, and Onondaga County Executive Joanne Mahoney with an Environmental Quality Award for their work.

EPA Environmental Quality Award Ceremony, 2010

STOPPING THE COAL

In 2007 a coal gasification plant was proposed for Jamesville, NY. This massive operation was to be located near homes and an elementary school; it would have brought in 110 cars of coal a day through the City of Syracuse and shipped its byproducts, such as sulphuric acid, on the same tracks. This operation's promise of carbon capture was no more than a pipe leading to nowhere, venting CO2 into the atmosphere. When local opposition mounted, the plant was then proposed for Scriba, NY. The Onondaga Nation lent its assistance to both the Jamesville Positive Action Committee (JAM-PAC) and the Scriba Coalition of Responsible Citizens, raising concerns with the New York State Department of Environmental Conservation (NYSDEC) through its government-to-government consultation relationship, and providing extensive background research to the Syracuse Post-Standard and the neighbors opposing the plant. Both communities were successful in keeping the plants out.

Grassroots organizations have asked Onondaga Nation leaders to speak at many events against hydrofracking

OPPOSING HYDROFRACKING

Before most people in CNY knew what hydrofracking was, the Onondaga Nation and Haudenosaunee Environmental Task Force (HETF) were working to protect local waterways and wells by educating neighbors & the NYSDEC staff about the dangers of this method of gas drilling. The 2009 HETF Statement on Hydrofracking was one of the first documents calling for a widespread ban on the process. Onondaga Nation leaders have spoken at numerous rallies and conferences, as well as co-sponsoring events of their own to raise awareness of the issue, such as the 2012 Water is Life music festival. The Onon-

daga Nation's legal team works to advise local landowners on how to terminate their gas leases, and assist in the defense of municipal moratoria and bans.

GLOBAL CLIMATE CHANGE

Oren Lyons, Faithkeeper of the Turtle Clan, is known internationally as an eloquent speaker about the need to stop global warming; a message that begins with returning to respect for Mother Earth. He's taken this message to the United Nations, international leaders, and more recently, the boards of major corporations and as the closing statement in Leonardo DiCaprio's documentary "The 11th Hour". Locally, the new building on Route 11 has an array of solar panels in the shape of the Hiawatha Belt, demonstrating beauty in form and function.

THROUGHOUT THE ABORIGINAL TERRITORY

The Onondaga Nation has also lent its assistance to the residents opposing the noxious factory farms that are polluting rural NY's air and water; to the neighbors working to restore Lake Neatahwanta near Fulton, NY; to opponents of the solid waste landfill located in Ava, NY, and to neighbors working to protect Three Falls Woods in Manlius, NY.

The extraordinary multi-cultural, multi-racial, environmental and political collaboration that exists between the Onondaga Nation and neighboring communities is not only encouraging, but may well become the centerpiece of a wholesale economic revival in central New York, a revival based on promoting the natural resources of the region without exploiting them irresponsibly. It is the hope of the Onondaga people that this revival will benefit every community in the region, regardless of size or ethnic makeup, and that through their land rights action, the Nation can continue to pursue, and to realize, these important goals.

The Onondaga Nation, its leaders and its people, continue to operate under their traditional mandate to be stewards of the earth, and to preserve the land, water and their fellow creatures for the Seventh Generation in the future. The land rights action is an important step toward fulfilling that mandate. The Nation hopes to continue working with its neighbors, as it has for years from Watertown to Binghamton, toward reversing some of the environmental damage that has affected everyone in Central New York, and re-establishing the area as one of the most beautiful and important ecological regions in the world.

A Brief History of Haudenosaunee Treaty Making & The Obligations of the United States to Protect Haudenosaunee Lands

In Article VI, the United States Constitution clearly mandates that: "[A]ll Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land. . . ."

THE 1794 TREATY OF CANANDAIGUA

Before reviewing a more complete history of Haudenosaunee treaty making, we will begin with the most recent treaty: the 1794 Treaty of Canandaigua, which was pursued by President Washington, because he very much needed to ensure that Haudenosaunee warriors would not join in the Ohio Indian wars, in which his armies were being defeated. Washington summoned the Six Nations Chiefs to Canandaigua by sending wampum strings, as required by Haudenosaunee diplomatic protocol. He also had Congress appropriate the funds necessary to create a wampum belt to commemorate the Treaty.

The original wampum belt commissioned by George Washington in 1794

In Article IV of Canandaigua, after recognizing and affirming the territory of the Haudenosaunee Nations, the United States unequivocally committed to: "never to claim the same, not to disturb them, or any of the Six Nations, or their Indian Friends residing thereon, and united with them, in the free use and enjoyment thereof . . . ."

This commitment by the fledgling United States to not disturb the Six Nation, or the free use and enjoyment of their territories, was consistent with the history of Haudenosaunee treaty making with the European colonial powers and with the 13 colonies in the mid to late 18th century.

THE FIRST TREATY: 1613 TWO ROW WAMPUM

The first treaty that the Haudenosaunee entered into with a European power was the Guswentha, or the Two Row Wampum, which was signed in 1613 with the Dutch, near Albany, New York. As with all treaties, it was fundamentally about trade and it clearly established an equal relationship, with both sides committing not to interfere with the other's government or laws; and it was commemorated with the making of a wampum belt.

The message of the Two Row Wampum Belt is important, as it contains two rows of purple wampum beads ruling parallel across a background of white beads. These two rows symbolize the two governments and cultures on an equal footing and their mutual commitment to respect each other and not to pass laws that would interfere with the other.

The Two Row is the fundamental basis of all Haudenosaunee diplomacy and treaty making which continued from 1613 right up to 1794 and Canandaigua. The Two Row also established a "covenant chain" to bind the two governments, cultures and peoples in peace, with the commitment to periodically polish this chain of peace and friendship, as the Haudenosaunee did in 1701 and 1768 with the British.

HAUDENOSAUNEE INFLUENCE ON BENJAMIN FRANKLIN

From the start, the Haudenosaunee unity of several Nations into one unified government was reflected in the thinking and actions of the Americans. In 1754 Benjamin Franklin proposed the Albany Plan of Union, which was one of the first salvos in the colonies' struggle for independence from British colonial rule. Franklin had visited the Haudenosaunee in 1744 and 1753 and the unification of the thirteen separate colonies proposed in the Albany Plan of Union was modeled after the Haudenosaunee Confederacy, to the extent that Franklin

proposed to call the new, unified legislature the "Grand Council."

In 1988, the United States Senate recognized that the Constitution was heavily influenced by and modeled after the Haudenosaunee Confederacy's founding principles, contained in the Great Law of Peace (S. Con. Res. 76, 100th. Congress).

The importance of the Haudenosaunee to the Americans' revolutionary struggle for independence and unity was again clearly reflected in 1775 in the Articles of Confederation and Perpetual Union, which Franklin proposed on May 10, 1775. This was after blood had been shed in Boston and after it was clear that independence would only be won with unity and with armed struggle. So, as the colonies prepared for this inevitable war with Britain's colonial army, Franklin proposed this first version of the Articles that were later modified and adopted in 1777. In his 1775 proposal, Franklin included this statement in Article XI:

> *A perpetual alliance, offensive and defensive, is to be entered into as soon as may be with the Six Nation; . . . their land not to be encroached on, nor any private or Colony purchases make of them hereafter to be held good; nor any contract for lands to be made, but between the Great Council of the Indians at Onondaga and the General Congress.*

So, we see clearly that these principles of peace and friendship and non-interference into the Haudenosaunee territories were fundamental parts of the formation of the United States, and these principles remained the basis for the treaties with the Haudenosaunee after independence: the 1784 Treaty of Fort Stanwix, the 1789 Treaty of Fort Harmor and the 1794 Treaty of Canandaigua. The oft repeated commitment by the young United States to the Haudenosaunee, not to disturb them in their territories and to protect their territories, was also the focus of President Washington's December 29, 1790 speech to Cornplanter and other Seneca Nation leaders. Washington was responding to an earlier speech by Cornplanter, and to statements made that summer to Timothy Pickering at Tioga by Haudenosaunee Chiefs, about the on-going disturbance caused by attempts to take and settle upon their land:

> *I the President of the United States, by my own mouth, and by a written Speech signed with my own hand Speak to the Seneka Nation, and desire their attention, and that they would keep this Speech in remembrance of the friendship of the United States. . . . That in future the United States and the Six Nations should be truly brothers, promoting each other's prosperity by acts of mutual friendship and justice. . . .*
>
> *"Here then is the security for the remainder of your lands. No State nor person can purchase your lands, unless at some public treaty held under the authority of the United States. The general government will never consent to you being defrauded. But it will protect you in all your just rights.*
>
> *Hear well, and let it be heard by every person in your Nation, That the President of the United States declares, that the general government considers itself bound to protect you in all the lands secured you by the Treaty of Fort Stanwix. . . .*
>
> *If however you should have any just cause of complaint . . . the federal Courts will be open to you for redress, as to all other persons. . . .*
>
> *Remember my words Senekas, continue to be strong in your friendship for the United States, as the only rational ground of your future happiness, and you may rely upon their kindness and protection."*

Let us put our goods minds together to find solutions that are good for all and for the generations yet to come.
Honor the treaties.

The Doctrine of Discovery and its Enduring Impact on Indigenous Peoples

WHAT IS THE DOCTRINE OF DISCOVERY?

The Discovery Doctrine is a construct of public international law expounded by the United States Supreme Court in a series of decisions, initially in Johnson v. M'Intosh in 1823. It is based on a series of 15th century Papal Bulls that gave Christian explorers the right to claim title to the lands they "discovered" and lay claim to those lands for their Christian Monarchs. Any land that was not inhabited by Christians was available to be "discovered", claimed, and exploited. If the "pagan" inhabitants could be converted, they might be spared. If not, they could be enslaved or killed.

> "By this directive, by fiat, the European nations claimed for themselves the entire Western Hemisphere. It is a demonstration of the incredible arrogance of the time. This has resulted in the subjugation, genocide, relegating indigenous peoples to a subhuman status in international politics. Indigenous peoples have been laboring and suffering under that status right up until the U.N. Declaration on the Rights of Indigenous Peoples was established in 2007, which for the first time recognized Indigenous peoples as 'peoples'. Up until recently, we were politically denied human rights."
>
> - Onondaga Nation Faithkeeper Oren Lyons

THE DOCTRINE OF DISCOVERY IS STILL USED TO DENY INDIGENOUS LAND RIGHTS

> "Under the 'Doctrine of Discovery' ... fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign — first the discovering European nation and later the original states and the United States"
>
> - Footnote #1, City of Sherrill v. Oneida Indian Nation of New York 125 S. Ct. 1478, 148384 (2005)

This decision resulted in the subsequent dismissal of the Cayuga and Oneida land claims and the Onondaga Nation's Land Rights Action.

A GROWING MOVEMENT TO REPUDIATE THE DOCTRINE OF DISCOVERY

July 2009
U.S. Episcopal Church

January 2012
The Unitarian Universalist Assembly

February 17, 2012
The World Council of Churches

May 1, 2012
The United Methodist Church

July 26, 2012
The New York Yearly Meeting of the Religious Society of Friends (Quakers)

More information on the Doctrine of Discovery can be found at doctrineofdiscovery.org

This op-ed from Onondaga Nation Faithkeeper Oren Lyons originally appeared in the Albany Times Union on Sunday, August 9, 2009, p. B1 and B3

400 years of hostility to Native Americans

By OREN LYONS

When Henry Hudson's Half Moon sailed into what is now called New York Bay 400 years ago, the natives he met had already been declared non-people for more than a century. That racist "Doctrine of Discovery" still resonates today in American courts of law.

Under the doctrine, issued in 1493 by Pope Alexander VI after Christopher Columbus kicked off a frenzy of transatlantic voyages, native lands "discovered" by European explorers were considered "unoccupied" because the people in those uncharted lands were not Christian.

That doctrine, known in church law as Inter Cetera, forms the basis of Indian law in what was to become the United States, justifying in the minds and courts of white settlers that they could divide up land ownership without regard for the millions of natives who had lived here for millennia. The protections intended in the separation of church and state were conveniently not extended to the Indians.

When the leaders of the American Revolution pledged their honor and fortunes in the fight to break free from England, those fortunes in many cases were based on huge profits pocketed by land speculators like Washington, Jefferson and Adams, who relied on the doctrine to survey, subdivide and claim ownership of lands with no consideration for the indigenous people living on them.

The United States is one of only four nations ... to have voted against the U.N.'s 2007 Declaration on the Rights of Indigenous Peoples, which protects indigenous people's rights to culture, identity, language, employment, health, education and use and development of their land.

That is why we are calling on Pope Benedict XVI, who has committed to confronting past wrongs done in the Catholic Church's name, to formally renounce Inter Cetera as a critical step on the road to right historic wrongs visited upon indigenous peoples here and elsewhere around the world where it was similarly applied.

Just last month, the Episcopal Church General Convention passed a resolution that "repudiates and renounces the Doctrine of Discovery as fundamentally opposed to the Gospel of Jesus Christ and our understanding of the inherent rights that individuals and peoples have received from God."

This is not ancient history.

"It continues to be invoked, in only slightly modified form, in court cases and in the many destructive policies of governments and other institutions of the modern nation-state that lead to the colonizing dispossession of the lands of indigenous peoples and the disruption of their

Please see **HOSTILITY B3** ▶

▶ Oren Lyons is faithkeeper of the Turtle Clan and a member of the Onondaga Nation Council of Chiefs of the Haudenosaunee (Iroquois) confederation.

HOSTILITY: Some still invisible

▼CONTINUED FROM **B1**

way of life," the Episcopal Convention resolution stated.

The Doctrine was cited as recently as 2005 by Supreme Court Justice Ruth Bader Ginsburg in a decision denying land sovereign status to the Oneida Indian nation's purchase of property clearly within its historic boundaries as established by the 1794 treaties signed by the new U.S. government with the nations of the Haudenosaunee (or Iroquois) confederation. Those nations include the Mohawk, Oneida, Cayuga, Seneca, Tuscarora and the Onondaga, the nation of which I am part.

Ginsburg wrote that "fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign — first the discovering European nation and later the original States and the United States."

She was applying longstanding law dating to a landmark 1823 decision in which Chief Justice John Marshall wrote that Piankeshaw Indians in Illinois could not freely sell their land because the federal government controlled it.

Citing the doctrine, Marshall noted that English explorer John Cabot was authorized to claim ownership of "discovered" lands "notwithstanding the occupancy of the natives, who were heathens, and at the same time, admitting the prior title of any Christian people who may have made a previous discovery."

Whether 1823 or 2005, it's clear who is left out — the people who lived on the land for countless generations before Europeans arrived.

The United States is one of only four nations — along with Canada, Australia and New Zealand — to have voted against the U.N.'s 2007 Declaration on the Rights of Indigenous Peoples, which protects indigenous people's rights to culture, identity, language, employment, health, education and use and development of their land.

So as New York and the nation commemorate the 400th anniversary of Henry Hudson's voyage up the river that bears his name, it is not surprising that indigenous people are invisible in that commemoration. According to the Doctrine of Discovery, we didn't exist when he first arrived. Apparently, we still don't.

World Council of Churches

A worldwide fellowship of 349 churches seeking unity, a common witness and Christian service

Document date: 17.02.2012

STATEMENT
ON THE DOCTRINE OF DISCOVERY
AND ITS ENDURING IMPACT
ON INDIGENOUS PEOPLES

WCC Executive Committee
14-17 February 2012
Bossey, Switzerland

1. Indigenous Peoples have the oldest living cultures in the world. Three hundred to five hundred million Indigenous Peoples today live in over 72 countries around the world, and they comprise at least 5,000 distinct peoples. The ways of life, identities, well-being and very existence of Indigenous People are threatened by the continuing effects of colonization and national policies, regulations and laws that attempt to force them to assimilate into the cultures of majoritarian societies. A fundamental historical basis and legal precedent for these policies and laws is the "Doctrine of Discovery", the idea that Christians enjoy a moral and legal right based solely on their religious identity to invade and seize indigenous lands and to dominate Indigenous Peoples.

2. Around the world, Indigenous Peoples are over-represented in all categories of disadvantage. In most indigenous communities people live in poverty without clean water and necessary infrastructure, lacking adequate health care, education, employment and housing. Many indigenous communities still suffer the effects of dispossession, forced removals from homelands and families, inter-generational trauma and racism, the effects of which are manifested in social welfare issues such as alcohol and drug problems, violence and social breakdown. Basic health outcomes dramatize the disparity in well-being between Indigenous Peoples and European descendants.

3. The patterns of domination and oppression that continue to afflict Indigenous Peoples today throughout the world are found in numerous historical documents such as Papal Bulls, Royal Charters and court rulings. For example, the church documents Dum Diversas (1452) and Romanus Pontifex (1455) called for non-Christian peoples to be invaded, captured, vanquished, subdued, reduced to perpetual slavery and to have their possessions and property seized by Christian monarchs. Collectively, these and other concepts form a paradigm or pattern of domination that is still being used against Indigenous Peoples.

4. Following the above patterns of thought and behaviour, Christopher Columbus was instructed, for example, to "discover and conquer," "subdue" and "acquire" distant lands, and in 1493 Pope Alexander VI called for non-Christian "barbarous nations" to be subjugated and proselytized for the "propagation of the Christian empire." Three years later, England's King Henry VII followed the pattern of domination by instructing John Cabot and his sons to locate, subdue and take possession of the "islands, countries, regions, of the heathens and infidels . . . unknown to Christian people." Thereafter, for example, English, Portuguese and Spanish colonization in Australia, the Americas and New Zealand proceeded under the Doctrine of Discovery as Europeans attempted to conquer and convert Indigenous Peoples. In 1513, Spain drafted a legal document that was required to be read to Indigenous Peoples before "just war" could commence. The Requerimiento informed Indigenous Peoples that their lands had been donated to Spain and that they had to submit to the Crown and Christianity or they would be attacked and enslaved.

5. In 1823, the U.S. Supreme Court used the same pattern and paradigm of domination to claim in the ruling Johnson & Graham's Lessee v. M'Intosh that the United States as the successor to various "potentates" had the "ultimate dominion" or "ultimate title" (right of territorial domination) over all lands within the claimed boundaries of the United States. The Court said that as a result of the documents mentioned above, authorizing "Christian people" to "discover" and possess the lands of "heathens," the Indians were left with a mere "right of occupancy;" an occupancy that, according to the Court was subject to the "ultimate title" or "absolute title" of the United States. The Johnson case has been cited repeatedly by Australian, Canadian, New Zealand and United States courts, and the Doctrine of Discovery has been held by all these countries to have granted European settler societies plenary power (domination) over Indigenous Peoples, legal title to their lands, and has resulted in diminished sovereign, commercial and international rights for Indigenous Peoples and governments. Europeans believed this was proper based on their ethnocentric, racial and religious attitudes that they and their cultures, religions and governments were superior to non-Christian European peoples.

6. Consequently, the current situation of Indigenous Peoples around the world is the result of a linear programme of

"legal"precedent, originating with the Doctrine of Discovery and codified in contemporary national laws and policies. The Doctrine mandated Christian European countries to attack, enslave and kill the Indigenous Peoples they encountered and to acquire all of their assets. The Doctrine remains the law in various ways in almost all settler societies around the world today. The enormity of the application of this law and the theft of the rights and assets of Indigenous Peoples have led indigenous activists to work to educate the world about this situation and to galvanize opposition to the Doctrine. Many Christian churches that have studied the pernicious Doctrine have repudiated it, and are working to ameliorate the legal, economic and social effects of this international framework. Starting in 2007, for example, with the Episcopal Diocese of Maine, followed by the Episcopal Diocese of Central New York in 2008, and in 2010 by Philadelphia Yearly Meeting of the Religious Society of Friends, individual churches began adopting resolutions and minutes repudiating the Doctrine. In 2009, at its 76th General Convention, the Episcopal Church adopted resolution D035 - "Repudiate the Doctrine of Discovery." In 2010, the General Synod of the Anglican Church of Canada adopted resolution A086 - "Repudiate the Doctrine of Discovery." In 2011, various Unitarian Universalist churches and Quaker organizations are adopting and considering adopting resolutions and minutes repudiating the Doctrine. This issue of the Doctrine of Discovery has also been brought to the forefront of world attention by Indigenous Peoples working with international bodies.

7. Considering the fact that the Doctrine of Discovery will be the theme for the 11th session of the United Nations Permanent Forum on Indigenous Issues (UNPFII) in 2012, churches and the international community need to be sensitized on this issue. The Doctrine of Discovery: its enduring impact on Indigenous Peoples and the right to redress for past conquests (articles 28 and 37 of the United Nations Declaration on the Rights of Indigenous Peoples) will be discussed at the UNPFII from 7 to 18 May 2012; this event will bring together representatives of Indigenous People's organizations and networks around the world. Churches and ecumenical networks of the WCC will be mobilized to be part of the 11th session of the UNPFII in 2012.

In this context, the executive committee of the World Council of Churches, meeting at Bossey, Switzerland, 14-17 February 2012,

A. Expresses solidarity with the Indigenous Peoples of the world and supports the rights of Indigenous Peoples to live in and retain their traditional lands and territories, to maintain and enrich their cultures and to ensure that their traditions are strengthened and passed on for generations to come;

B. Denounces the Doctrine of Discovery as fundamentally opposed to the gospel of Jesus Christ and as a violation of the inherent human rights that all individuals and peoples have received from God;

C. Urges various governments in the world to dismantle the legal structures and policies based on the Doctrine of Discovery and dominance, so as better to empower and enable Indigenous Peoples to identify their own aspirations and issues of concern;

D. Affirms its conviction and commitment that Indigenous Peoples be assisted in their struggle to involve themselves fully in creating and implementing solutions that recognize and respect the collective rights of Indigenous Peoples and to exercise their right to self-determination and self-governance;

E. Requests the governments and states of the world to ensure that their policies, regulations and laws that affect Indigenous Peoples comply with international conventions and, in particular, conform to the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization's Convention 169;

F. Calls on each WCC member church to reflect upon its own national and church history and to encourage all member parishes and congregations to seek a greater understanding of the issues facing Indigenous Peoples, to support Indigenous Peoples in their ongoing efforts to exercise their inherent sovereignty and fundamental human rights, to continue to raise awareness about the issues facing Indigenous Peoples and to develop advocacy campaigns to support the rights, aspirations and needs of Indigenous Peoples;

G. Encourages WCC member churches to support the continued development of theological reflections by Indigenous Peoples which promote indigenous visions of full, good and abundant life and which strengthen their own spiritual and theological reflections.

Frequently Asked Questions about the Onondaga Nation Land Rights Action

WHAT IS THE ONONDAGA NATION?

The Onondaga Nation is an Indian Nation, and a member of the Six Nations Iroquois Confederacy, or Haudenosaunee. The Onondaga Nation is the "Firekeeper" or central council fire of the Haudenosaunee. The other nations are the Mohawk, Oneida, Cayuga, Seneca and Tuscarora Nations. The Haudenosaunee is recognized in three treaties made with the United States, and all of its members are federally-recognized Indian nations. The Onondaga Nation continues to maintain its ancient form of government, including a traditionally-selected Council of Chiefs. The Nation's present territory is south of Syracuse, New York.

WHY IS THE ONONDAGA NATION SUING NEW YORK STATE?

The Onondaga Nation is taking action to assert its legal rights to its homelands in Central New York, with the principal goal of achieving legal recognition of title to its homelands. The Onondagas initiated the process several years ago by meeting with Governor George Pataki and members of his staff. The Nation plans to file a law suit in Federal District Court, although a filing date has not yet been set. The Nation does not wish or expect to sue individual land owners.

WHAT DOES THE ONONDAGA NATION SEEK?

The Onondaga Nation seeks legal recognition of its title to the lands that were unlawfully taken by New York State in violation of the federal Trade and Intercourse Acts (25 U.S.C. Section 177) and other federal laws and treaties. These lands comprise the territory of the Onondaga Nation.

WHAT IS THE LEGAL BASIS FOR THE ONONDAGA NATION LAND CLAIM?

The Onondaga Nation has lived on the lands at issue from time immemorial, since long before the coming of Europeans, and has never sold or otherwise relinquished its lands or its rights as a sovereign nation. The United States recognized these lands as belonging to the Onondaga Nation (along with additional lands belonging to other members of the Haudenosaunee) in the 1784 Treaty of Fort Stanwix and the 1794 Treaty of Canandaigua. The lands are essential to the Nation's and the Haudenosaunee's ability to practice and maintain their indigenous culture.

The Onondaga Nation land title action is based on the U.S. Constitution, the Treaties of Fort Stanwix and Canandaigua, and the federal Trade and Intercourse Acts. Under the terms of the Constitution and the Trade and Intercourse Act of 1790 and its subsequent re-enactments, no "purchase, grant, lease or other conveyance of land" from an Indian nation is valid without the participation and approval of the United States government.

HOW DID NEW YORK STATE AND OTHERS COME TO POSSESS ONONDAGA LANDS IF THEY WERE NOT ACQUIRED LEGALLY?

Between 1790 and 1822, the State of New York signed five so-called treaties with unauthorized individual members of the Onondaga Nation, supposedly acquiring all of the Nation's lands except for the 7,300-acre territory where the Nation resides today. The State later sold most of the land to others. None of these "treaties" was ever ratified or approved by the Onondaga Nation itself, by the Haudenosaunee, or by the United States government.

As a result, none of these so-called treaties between the State of New York and the Onondaga Nation are valid. The U.S. Supreme Court has decided that under such circumstances title to the land continues to belong to the original Indian nation owner. This was decided in the case of County of Oneida, New York v. Oneida Indian Nation of New York State, 470 U.S. 226 (1985).

WHAT HAS HAPPENED WITH SIMILAR LAND CLAIMS IN THE U.S.?

Several other Indian nations in the eastern United States have made similar land claims, seeking to win recognition of their titles to lands taken by various states in violation of the Trade and Intercourse Acts. In a 1974 decision on an Oneida Nation land claim brought under the Trade and Intercourse Acts, the U.S. Supreme Court upheld the right of Indian nations to sue in federal court for the recovery of damages with respect to lands taken in violation of the Trade and Intercourse Acts. In a second decision concerning the Oneida Nation claim, the Court ruled that state statutes of limitations and other state law defenses were not applicable to such suits, and that title to lands taken in violation of the Trade and Intercourse Acts remains with the Indian owner. These decisions have served as precedents for a number of land claim cases brought by Indian nations.

Of land claim cases based on the Trade and Intercourse Acts, six have been resolved by negotiation between the Indian nations and representatives of the State and Federal governments and the affected landholders, and have thus mitigated costly and time-consuming litigation that would have inevitably caused substantial hardship for all sides.

However, shortly after the Onondaga Nation Land Rights Action was filed in 2005, the rules were changed. The U.S. Supreme Court ruled in Sherrill v. Oneida that the Oneida Nation cannot reassert sovereignty over land they purchased. The Court invoked an odd interpretation of "laches", saying that the Oneidas had waited too long and any remedy would not be fair to locals. But laches, as traditionally used in law, has requirements that must be met for it to be invoked, none of which were met. This case invented new law, and set a dangerous precedent. It was subsequently used to reverse the Cayuga decision in the Second Circuit Court of Appeals in June 2005, completely dismissing their land claim. The Second Circuit then dismissed the Oneida Land Claim in August 2010, and the U.S. Supreme Court decided not to hear the appeal. See the *Chronology of the Onondaga Nation's Land Rights Action* for more information.

WHAT HAS HAPPENED TO THE ONONDAGA LANDS TAKEN BY NEW YORK?

In the more than 200 years since the adoption of the U.S. Constitution and the enactment of the Trade and Intercourse Acts, the Onondaga Nation's original land base has suffered vast reductions. New York's illegal takings were followed by more than a century of industrial chemical production and manufacturing on parts of the taken land. As a result, parts of the claim area are among the most polluted sites in the United States.

Perhaps the most dramatic impact has been on Onondaga Lake, which has been designated a Superfund site by the U.S. Environmental Protection Agency (EPA). Within the waters and sediments of the lake, EPA has found dangerous levels of numerous hazardous materials, including pesticides, creosote, polycyclic hydrocarbons, volatile organic compounds, lead, cobalt, mercury, and polychlorinated biphenyls. These last four substances are on the U.S. Agency for Toxic Substance and Disease Registry's list of the twenty most toxic substances.

In addition to Onondaga Lake, EPA has designated 15 other Superfund sites within Onondaga County, the center of the land claim. High levels of pollution have gravely damaged the land and the entire environment in which the Onondaga have lived for centuries. The resulting conditions impair the Nation's ability to subsist and limit its options for economic development. Reasserting the Nation's title to lands illegally taken by New York State is an important step for the Nation not only in addressing issues of pollution, but in providing for the sustained and respectful use of those lands by future generations.

HOW IS THE UNITED STATES GOVERNMENT INVOLVED IN THE ONONDAGA LAND RIGHTS CASE?

The United States has a responsibility to enforce its own laws, including its treaties with the Haudenosaunee, and to maintain a government-to-government relationship with the Onondaga Nation that is respectful of the Onondagas' basic human rights. The treaties initiated by the State of New York violated federal law, because they purported to acquire tracts of Onondaga land for the State of New York without United States government approval or participation, and in fact without the approval of the Onondaga Nation and the Haudenosaunee. It is for these reasons that the Onondaga Nation has asked the U.S. government to file suit in federal court together with the Nation.

Frequently Asked Questions about the Onondaga Nation Land Rights Action

WHAT ARE THE CENTRAL GOALS AND PURPOSES OF THE ONONDAGA LAND RIGHTS ACTION?

See *Specific Goals of the Onondaga Nation Land Rights Action*

WHAT EFFECT WILL THIS HAVE ON THE ENVIRONMENT?

The Onondaga Nation and the Haudenosaunee were given instructions on how to live on Mother Earth. Part of these instructions include caretaking of the lands with which we live. The Onondagas would set up standards to ensure our future generations have clean air to breathe, fertile soil to plant, clean waters to drink, and a healthy food chain.

WILL I BE MOVED FROM MY HOME?

No. The Onondaga Nation does not intend a mass exodus of people from their homes. As instructed by our ancestors in the Two Row Wampum, we are to live together in Peace and Friendship Forever. To force families from their homes is not a peaceful way. It happened to our Onondaga villages, and we wouldn't want a similar trauma to happen today.

WILL SYRACUSE HAVE A CASINO?

No. The Onondaga Nation Chiefs and Clan Mothers have had this proposal brought before the council many times. The Onondaga Nation leaders do not see a casino as a positive impact on the people. The monetary gain does not outweigh the burden a casino may have on our community.

WILL MORE BUSINESS MOVE?

The Onondaga Nation is looking forward to the creation of attractions and jobs to aid in stimulating the economy. The people of the Onondaga Nation find most of their employment in the greater Syracuse area. The loss of jobs hurts both communities.

WHY A LAND CLAIM WHEN THE US HAS EMINENT DOMAIN?

The Onondaga Nation and the United States has always negotiated as two separate sovereigns. The Onondaga government has seen many changes over time and has never relinquished control. One of these changes was the creation of the United States. The United States has made treaties with the Onondaga and the Haudenosaunee. Therefore, the Onondaga people do not consider themselves defeated by the United States.

DON'T NATIVES ALREADY RECEIVE MONEY FOR THEIR LAND?

No. The Onondaga Nation receives treaty obligations which include treaty cloth, health and education benefits. The Onondaga Nation does not participate in Federal or State grants. The Onondaga Nation is not a recipient of Federal or State government revenue sharing. The Onondaga Nation is sovereign.